

ORIGINAL

Attorney Docket No. Le A 33 820

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Haynes, et al.

Serial No.: 09/743,827

Group Art Unit: 1626

Filed: 07/31/01

Examiner: S.N. Wright

For: Antiparasitic Artemisinin Derivatives (endoperoxides)

RECEIVED  
CENTRAL FAX CENTER

JAN 19 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATION OF MAILING UNDER 37 C.F.R. 1.8(a)

I hereby certify that this correspondence and any papers referred to as attached are being deposited, on the date shown below, with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313-1450.

Date: NOV. 10, 2004

  
Signature of Person Certifying/Mariellen Chappellaine

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT

Sir:

The owner, BAYER AG, of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,649,647. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that said prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

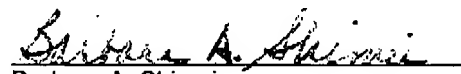
The Commissioner is hereby authorized to charge the Terminal disclaimer fee under 37 CFR 1.20(d) to Deposit Account 13-3372. A duplicate of this sheet is attached.

Respectfully submitted,

Date: 10 November 2004

Telephone: (203) 812-2786

Facsimile (203) 812-6459

  
Barbara A. Shimei  
Attorney of Record  
Registration No.: 29, 862  
Bayer Pharmaceuticals Corporation  
400 Morgan Lane  
West Haven, CT 06516-4175